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Attorneys for Defendants
PASSES, INC. and LUCY GUO

IN THE UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

FAMOUS BIRTHDAYS, LLC, a California limited liability company, Plaintiff, v. PASSES, INC., a Delaware corporation; and LUCY GUO, an individual, Defendants.	Case No. 2:24-cv-08364-CBM-SSC **DECLARATION OF PATRICK ZHANG IN SUPPORT OF OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION** Date: December 3, 2024 Time: 10:00 a.m. Ctrm.: 8-D Judge: Hon. Consuelo B. Marshall Action Filed: September 27, 2024

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1   **DECLARATION OF ATTORNEY PATRICK ZHANG**

2   I, Patrick Zhang, declare as follows:

3   1.   I am the Chief Technology Officer ("CTO") at Defendant Passes, Inc.

4   ("Passes"). I have personal knowledge of the matters stated herein, and, if called as

5   a witness, I would and could competently testify as to the following. I make this

6   declaration in support of Passes' Opposition to Plaintiff Famous Birthdays, LLC's

7   ("Famous Birthdays") Motion for Preliminary Injunction (the "Opposition").

8   2.   As part of my role, I manage software engineering team members and

9   activities for Passes. The software engineering team helped prepare the Passes Wiki

10   biography pages.

11   3.   I was responsible for overseeing the Famous Birthdays-related activities

12   for the creation of the Passes Wiki biography pages. The Passes Wiki biography

13   pages for each celebrity, political figure, athlete, content creator, or public figure

14   (individually and collectively, "Public Figure(s)") generally contained: a biography

15   narrative providing facts about the Public Figure; the Public Figure's social media

16   handles; and the Public Figure's birthdate, place of birth, and astrological sign. The

17   process of preparing the Passes Wiki biographies, in part, included accessing

18   Famous Birthdays' publicly available information and the Famous Birthdays Pro

19   services that Passes had access to under the services agreement that Passes and

20   Famous Birthdays entered into on or around February 29, 2024.

21   **Passes' Use of the Famous Birthdays Pro Services**

22   4.   Passes used the login information provided by Famous Birthdays to

23   access the Famous Birthdays Pro service and to call the rank graph API endpoint to

24   obtain certain information about Public Figures.

25   5.   On or about May 8, 2024, I received API documentation and Passes'

26   token for accessing the Famous Birthdays Pro service, which was sent to Passes by

27   Famous Birthdays. A true and correct copy of the email chain is attached hereto as

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1   **Exhibit A**. To access the API endpoints contained in this document, Passes used the

2   token provided by Famous Birthdays. *See id.*

3   6.   I never instructed any Passes employee to access, alter, or otherwise

4   introduce anything that would alter Famous Birthdays' source code. I personally did

5   not access, alter, or otherwise introduce anything that would alter Famous Birthdays'

6   source code. I investigated Famous Birthdays' assertion that Exhibit C to the

7   Declaration of Kevin Ostrowski shows that the historical rank graph API call was

8   somehow "amidst Famous Birthdays Pro's source code" by talking with the Passes

9   employees who accessed Famous Birthdays Pro services. I concluded that no one at

10   Passes somehow inserted anything "amidst Famous Birthday Pro's source code." I

11   am unaware of any evidence that supports Famous Birthdays' insinuation. *See*

12   Declaration of Evan Britton in Support of Motion for Preliminary Injunction (Dkt.

13   11-1, "Britton Decl."), ¶ 27.

14   7.   I never instructed any Passes employee to access or extract anything

15   from Famous Birthdays' source code. I personally did not access or extract anything

16   from Famous Birthdays' source code. I spoke with the Passes employees who

17   accessed Famous Birthdays Pro services and can unequivocally state that Famous

18   Birthdays' assertion that "Passes . . . surreptitiously extracted [the historical rank

19   graph API call] from the Famous Birthdays source code" is false and should be

20   rejected entirely. *See* Britton Decl., ¶ 29.

21   8.   I never instructed any Passes employee to access or use Famous

22   Birthdays Pro services through any method other than credentials or a token that were

23   provided by Famous Birthdays to Passes. I personally did not access or use Famous

24   Birthdays Pro's services through a method other than the credentials provided by

25   Famous Birthdays. I investigated whether anyone else at Passes accessed the Famous

26   Birthdays Pro website through another method, and based on my reasonable

27   investigation confirmed that no one at Passes accessed Famous Birthdays Pro

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1   services through any method other than credentials or a token that was provided by

2   Famous Birthdays.

3   9.   I never instructed any Passes employee to use Famous Birthdays Pro

4   API calls in any way to "hack[]" the Famous Birthdays Pro's source code. *See*

5   Britton Sealing Decl., ¶¶ 7-9. As the CTO, I am also very confident that no one else

6   at Passes issued such an instruction. I have asked all of the people involved in

7   accessing Famous Birthdays' website, and I understand that none of them did so.

8   Indeed, any such action would be a serious transgression of Passes' policies.

9   10.   I personally did not use the API calls to "hack[]" the Famous Birthdays

10   Pro's source code," and I am unaware of any evidence that supports Famous

11   Birthdays' allegation without evidence that Passes did. *See* Declaration of Evan

12   Britton in Support of the Sealing Application (Dkt. 10, "Britton Sealing Decl."), ¶¶

13   7-9.

14   **Passes' Access of the Rank Graph API Endpoint**

15   11.   Famous Birthdays provided Passes the authorization needed to call and

16   obtain data from the "rank graph API endpoint."

17   12.   Following a reasonable investigation, I understand that Passes was

18   authorized and able to call the rank graph API endpoint by using the login credentials

19   that Famous Birthdays provided to Passes. To access the rank graph API endpoint, I

20   understand that Famous Birthdays did not require Passes to provide further

21   credentials. From my investigation, I also understand there were no indications to

22   Passes that the rank graph API endpoint was "internal" or only meant for use by

23   Famous Birthdays personnel as it was accessible with the login credentials provided

24   by Famous Birthdays.

25   13.   Famous Birthdays' insinuation that Passes circumvented a technical rate

26   limit (of only allowing Passes to conduct 2,500 searches) is wrong. From talking

27   with the relevant Passes personnel, I understand that Passes did not receive notice of

28   any rate limits upon accessing the rank graph API endpoint. Based on this

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1   information, Famous Birthdays did not place a rate limit, failed to properly place a

2   rate limit, or placed a rate limit that is higher than the number of calls Passes placed

3   to the rank graph API endpoint.

The Passes Wiki Biography Pages

5   14.   Passes created the Passes Wiki biography pages using factual

6   information about the Public Figures, such as biographical information, social media

7   handles, birthdates, places of birth, and astrological signs. I oversaw this process.

8   15.   Each Passes Wiki biography page contains a biography narrative for the

9   respective Public Figure. To compose the biography narratives, Passes directed

10   ChatGPT to generate distinct biography narratives based on the factual information

11   that Passes' automated data collection tool obtained from Famous Birthdays' public

12   website and information that ChatGPT already knew (based on how Artificial

13   Intelligence, or "AI" trained the model) about the Public Figures. The resulting

14   biography narratives, which were used on the Passes Wiki pages, are different from

15   Famous Birthdays' factual biography narratives.

16   16.   I never republished or instructed any Passes employee to republish

17   language of Famous Birthdays' biography pages. I am unaware of any evidence that

18   supports Famous Birthdays' insinuation that Passes did so.

19   17.   Famous Birthdays statement that "Passes is diverting hundreds of

20   thousands of users per month away from Famous Birthdays," was false even when

21   the Passes Wiki biography pages could be viewed by the public. *See* Britton Decl.,

22   ¶ 76. Famous Birthdays has provided no evidence to support these allegations

23   regarding diversions. Additionally, any views to Passes Wiki biography pages were

24   the result of Internet searches and views by public users.

25   18.   Following Famous Birthdays' initiation of this litigation, at Lucy Guo's

26   instruction, I removed all of the Passes Wiki biography pages from public view.

27   Removing the pages from public view means that the links to each biography page

28   no longer appear when a member of the public attempts to search for the Passes Wiki

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1   biography or enters the URL link that previously navigated to a specific celebrity's

2   Passes Wiki biography page.

3   19.   I removed the Passes Wiki biographies from public view on or about

4   October 25, 2024. The Passes Wiki biographies will remain hidden from public view

5   until I receive instruction from Ms. Guo to do otherwise. I understand that neither

6   Passes nor Ms. Guo has any intent to make the Passes Wiki biographies publicly

7   available.

8   20.   Following Famous Birthdays' initiation of this litigation, at Ms. Guo's

9   direction, I instructed all relevant personnel not to access or use any data that Passes

10   obtained from Famous Birthdays under the Services Agreement. I further directed

11   relevant personnel to abide by this instruction until Ms. Guo or I notify them

12   otherwise. I understand that neither Passes nor Ms. Guo has any intent to allow

13   Passes personnel to access or use any such data.

14   I declare under penalty of perjury under the laws of the United States of

15   America that the foregoing is true and correct.

16   Executed on November 12, 2024.

17

18

19   DocuSigned by:

                                                     Patrick Zhang
                                                     7311CE514D7E447...
20   PATRICK ZHANG

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EXHIBIT A

EXHIBIT A

![Gmail logo]   Patrick Zhang <patrick@passes.com>

FW: Famous Birthdays Pro Contract

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payas@passes.com <payas@passes.com>   Wed, May 8, 2024 at 11:22 AM
To: patrick@passes.com

From: Zach Ferraro <zach@famousbirthdays.com>
Sent: Wednesday, April 10, 2024 11:58 AM
To: Payas Parab <payas@passes.com>
Cc: connor@passes.com
Subject: Re: Famous Birthdays Pro Contract

Hey Payas,

Yes! Great to connect again, exciting move, Passes is a great spot to land.

I assume you mean Famous Birthdays Pro, correct?

Let's jump on a call when you are diving in and I will walk you through the site and features.

I've also attached some API documentation, and here is your key:

PASSES Unique Token: c7203889cdf678eb08e0ba41f8337fe5

Cheers,

Zach

On Tue, Apr 9, 2024 at 8:59 PM Payas Parab <payas@passes.com> wrote:

> Hey Zach,
>
>
> Not sure if you remember me but we met briefly at the HF0 house with David Tesler.
>
>
> I am going to be joining passes soon to lead strategy and take on some of the work related to creator acquisition and
> creator assessment. I am building an internal tool to support our sales team.
>
>
> Can you provide documentation for Passes Pro as that is part of our subscription? Can you also point me to where to
> obtain our API key?
>
>
> Best,

Payas

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___

From: Connor Sweeney <connor@passes.com>
Sent: Friday, April 5, 2024 1:42 PM
To: Payas Parab <payas@passes.com>
Subject: Fwd: Famous Birthdays Pro Contract

---------- Forwarded message ---------
From: **Zach Ferraro** <zach@famousbirthdays.com>
Date: Wed, Feb 28, 2024 at 3:46 PM
Subject: Famous Birthdays Pro Contract
To: connor@passes.com <connor@passes.com>

Hey Connor,

Here's the contract for the Premiere tier at $5k/mo. It isn't actually unlimited, but generally this is as much as most people need for tracking and generating leads. If you think this isn't enough, let me know, but you could always start here and upgrade if you want more. I will discuss true unlimited with Evan as I think we have only done that once.

Also as I mentioned, there will be a discount if you go to a yearly contract.

And with this, we'll assist with implementation of the API to your system if that's how you want to use it.

Let me know if you guys have any questions. If you want to move forward, I'll send over the docusign!

Cheers,

Zach

📄 **Famous-Birthdays-Pro-API-Documentation.pdf**
187K